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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,497	11/14/2001	Leola Henry	PIL0123/US	3217

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EXAMINER
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TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 09/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/001,497

Applicant(s)

HENRY ET AL.

Examiner

Lien T Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hahn et al in view of Freyn et al.

Hahn et al disclose dough product incorporating filling. The filling comprises fat, sugar, and flavorant. The sugar can be corn syrup solid, brown sugar, maple sugar, molasses, sucrose etc.. and mixtures of these sugars. The flavorants include spices, cream cheese, orange, fruit, fruit extract, cinnamon etc.... The fillings are used in conjunction with doughs to provide filled dough products. The fillings can be utilized with any type of dough to form any dough product that is desirably filled. The filled dough product is frozen. Examples of dough products include biscuits, croissants, scones, dinner rolls etc.. Such doughs typically have water activity of .90 or greater. The water activity of the filling is selected such that the differential between the water activity of the dough and the filling is less than about .25 (see columns 4-12 and

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example 1). Example 3 shows the a filled dough product is formed by spreading the filling on the dough sheet and rolling the filled dough sheet to form rolled dough product which is stored and baked before consumption.

Hahn et al do not disclose a frozen dough comprising flour, water, chemical leavening system, sugar and fat which is frozen and then baked without proofing, the amounts of ingredients of the dough, the size of the dough product as claimed and the use of margarine or butter in the filling.

Frey et al disclose a frozen dough which does not need to be thawed and proofed prior to baking. The dough comprises flour, protein, sugar, chemical leavening agent, water and fat. (see columns 3-4)

It would have been obvious to one skilled in the art to use the dough of Frey et al to prepared the filled product disclosed in Hahn et al because Hahn et al disclose any dough formulation can be used. It would have been obvious to adjust the ingredients of the dough disclosed by Frey et al to make other type of dough. Frey et al disclose the dough can be used to make different types of product. The amounts of flour and water of the Frey et al dough differs from the amounts claimed. However, it would have been obvious to one skilled in the art to adjust the amounts of ingredients depending upon the type of dough and the flavor, texture and taste desired for such dough. The amounts of ingredients used for bakery products vary and it would have been within the skill of one in the art to determine the appropriate amounts through routine experimentation which would give the most optimum product. It would also have been obvious to make the product in any size desired; this would have been an obvious

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matter of choice. It would also have been obvious to use margarine or butter as the fat source if such taste is desired. It is notoriously well known to use butter or margarine in fillings.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Dunker et al disclose frozen uncooked cinnamon roll.

Benjamin et al and Hansen et al disclose freeze to oven dough products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T Tran whose telephone number is 703-308-1868.

The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

September 22, 2003

  
LIEN TRAN  
PRIMARY EXAMINER  
*Group 1702*